

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA, ) **Case No. 3:12-MJ-037-BK-1**  
)  
Plaintiff, ) **Eastern District of Virginia**  
) **Case No. 4:12-MJ-11**  
v. )  
) Dallas, Texas  
OSCAR GONZALEZ, ) January 26, 2012  
) 2:00 p.m. Docket  
Defendant. )  
) DETENTION HEARING  
) PRELIMINARY HEARING  
)

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE RENEE HARRIS TOLIVER,  
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

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1                   DALLAS, TEXAS - JANUARY 26, 2012 - 2:12 P.M.

2                   THE COURT: The Court next calls Cause No. 3:12-MJ-11  
3 [sic] [3:12-MJ-37], United States of America versus Oscar  
4 Gonzalez.

5                   MR. CALVERT: Rick Calvert for the Government.

6                   THE COURT: Thank you, Mr. Calvert.

7                   THE COURT: Mr. Gonzalez, you're appearing here today  
8 for your detention and preliminary and identification hearings.  
9 You may join your counsel at counsel table.

10                  Mr. Calvert, are you ready to proceed?

11                  MR. CALVERT: We are, Your Honor.

12                  THE COURT: Mr. Lechtenberger?

13                  MR. LECHTENBERGER: Yes, Your Honor, with one caveat.  
14 Your Honor, I'm going to fall on the sword a little bit with  
15 the Court. I had told my client not to talk to anybody, and I  
16 failed to tell him that it was okay to talk to Pretrial  
17 Services. Thus, you will see your blue copy, Your Honor, where  
18 my client invokes his Fifth Amendment privilege.

19                  THE COURT: Right.

20                  MR. LECHTENBERGER: That was my mistake. He certainly  
21 didn't mean to be disrespectful to the Court or to try to play  
22 games, or, worse, what some people would term to be lawyering  
23 up. That was my fault when I went to go see him. So, we can  
24 certainly clarify that if the Court does desire, if you find  
25 merit with my argument. I'd like to have the opportunity for

1 him to cooperate with Pretrial, make sure this is all verified,  
2 confirmed and substantiated. Because I have seen you from time  
3 to time, Your Honor, say it's not sufficient in here and with  
4 other lawyers, and I just don't want to make that mistake. So,  
5 I thought you'd appreciate my brevity and directness.

6 THE COURT: I do. And I agree with you that that  
7 would probably be a good idea, in light of the detention issue,  
8 if --

9 MR. LECHTENBERGER: Fair enough, Your Honor.

10 THE COURT: -- for no other reason. How long do you  
11 think you'll need?

12 MR. LECHTENBERGER: Well, would it be okay if we  
13 proceeded further, and if you find merit with my argument,  
14 which I hope you will, that I can dovetail that back in right  
15 afterwards with Pretrial Services? And I certainly don't want  
16 to inconvenience them and probably over under ten minutes.

17 THE COURT: Okay. They're not going to be able to do  
18 a report or interview him probably today. So, are you saying  
19 get to the point that we've heard all the evidence and then  
20 continue the hearing?

21 MR. LECHTENBERGER: Well, I guess with Mr. Calvert's,  
22 probably, input, what I would propose is just to go ahead and  
23 do everything right now. And I think I will have a persuasive  
24 argument to the Court, and hopefully you'll say, Mr.  
25 Lechtenberger, I'm going to go ahead and delay this for a few

1 days, let Mr. Gonzalez firm this up with Pretrial Services,  
2 have the Pretrial Services call -- I have all my relatives and  
3 family members here for support. And then if we can reconvene  
4 at a later point that's convenient for Mr. Calvert, you, as  
5 well as Pretrial.

6 THE COURT: And the only problem is, if we are  
7 required to convene after --

8 MR. LECHTENBERGER: I'll waive it.

9 THE COURT: No, no, no.

10 MR. LECHTENBERGER: Mr. Gonzalez will waive it.

11 THE COURT: After Friday, then it would technically go  
12 to the next magistrate judge. I could keep it, but that's  
13 technically what happens.

14 But we can proceed now. Call your first witness, Mr.  
15 Calvert.

16 MR. CALVERT: Your Honor, at this time the Government  
17 would call DEA Task Force Officer Tommy Hale.

18 TOMMY HALE, GOVERNMENT'S WITNESS, SWORN

19 DIRECT EXAMINATION

20 BY MR. CALVERT:

21 Q Sir, please state your name for the Court.

22 A Tommy Hale, H-A-L-E.

23 Q How are you employed, sir?

24 A I am an investigator with the Dallas District Attorney's  
25 Office and assigned to the Drug Enforcement Administration.

1 Q As an assignee of the Drug Enforcement Administration, what  
2 are your duties and responsibilities?

3 A Investigate the drug laws and violation in the United  
4 States.

5 Q How long have you held that position?

6 A I've been there approximately 20 years.

7 Q I'm going to ask you if you become aware earlier, or I  
8 guess midway through 2011, of a criminal investigation that was  
9 taking part in the Eastern District of Virginia which touched  
10 upon individuals that you were able to identify here in the  
11 Northern District of Texas?

12 A Yes, I did.

13 Q Please tell the Court a little bit about that investigation  
14 and what you learned in regard to a specific individual here in  
15 Dallas as it related to that investigation?

16 A We had received information in 2011 regarding a drug  
17 organization that was operating in Dallas, Texas that was  
18 transporting large sums of cocaine into Norfolk, Virginia.

19 Q Was Virginia able to put a quantity on the amount of  
20 cocaine that was coming from the Northern District of Texas to  
21 their district?

22 A They said that they believed it was in excess of 100 kilos  
23 over a two-year period of time that they -- at that point that  
24 they had record of.

25 Q After the cocaine, the powdered cocaine got to the Eastern

1 District of Virginia, what was happening to it there?

2 A At that point it was given a group of individuals --

3 (Microphone noise.)

4 Q Is that better?

5 A It was given to group of individuals in Virginia. It was  
6 then distributed onto the streets of Virginia, both in powder  
7 form and as crack cocaine.

8 Q Was the investigation through the Eastern District of  
9 Virginia also headed up by DEA?

10 A It was headed up -- there was two agencies actually  
11 investigating that side of it. DEA was one and Immigration &  
12 Customs Enforcement was the other agency.

13 Q Through the investigation in the Eastern District of  
14 Virginia, were law enforcement agents able to identify the  
15 source of supply of the powdered cocaine that was being brought  
16 to the Eastern District of Virginia?

17 A Yes, they were.

18 Q Who did they identify?

19 A Demontre Morgan.

20 Q What, if anything, do you know of Demontre Morgan? And  
21 what did you know of him at the time this investigation was  
22 ongoing?

23 A We knew that Demontre Morgan was living here in the Dallas,  
24 Texas area and was operating a record label at that time. We  
25 knew that he was associating with several people here that had

1 moved here actually from Virginia that was assisting him in his  
2 drug trafficking operation that was coming from Dallas into  
3 Virginia.

4 Q All right. And prior to -- and ultimately Mr. Morgan was  
5 named in an indictment that was returned in the Eastern  
6 District of Virginia -- specifically, on December 13, 2011. Is  
7 that correct?

8 A That is correct.

9 Q Prior to that indictment being returned, had law  
10 enforcement agents ever sat down and talked to anyone who  
11 identified an individual who Demontre Morgan was getting his  
12 powdered cocaine source -- or, his powdered cocaine from?

13 A According to the agents in Virginia I spoke to, they had  
14 interviewed an individual in Virginia that had identified a  
15 young Hispanic male that had a gold grill that lived in Dallas,  
16 Texas that was providing cocaine to Demontre that was  
17 eventually ending up in Virginia.

18 Q All right. Did there come a point in time -- and let me  
19 back up. That individual, had he seen Demontre Morgan's source  
20 of supply before? Is that how he was able to identify him?

21 A From my understanding, that's correct.

22 Q He just didn't know what his name was?

23 A He did not know his name.

24 Q All right. And at some point in time, did law enforcement  
25 agents conduct a takedown of the Eastern District of Virginia

1 indictment?

2 A Yes, we did.

3 Q When did that take place?

4 A That occurred on January the 17th.

5 Q All right. And as a result of that takedown, was Demontre  
6 Morgan arrested here in the Northern District of Texas?

7 A Demontre Morgan was arrested, as well as another one of his  
8 associates.

9 Q Immediately upon Mr. Morgan's arrest, was he given an  
10 opportunity to speak to investigators?

11 A He was.

12 Q Did he voluntarily waive his right to remain silent and did  
13 he fully and completely cooperate?

14 A He did immediately.

15 Q What did Mr. Morgan tell you as far as his role was in  
16 getting the powdered cocaine up to the individuals in Virginia?

17 A He told us that he was working with a Hispanic young male  
18 here by the name of Oscar and that he would come to a location  
19 in Dallas, Texas off of Weather Vane and that he had already  
20 previously set up prior to the day of the arrest for 20 kilos  
21 to be delivered to him on that Thursday.

22 Q Did Mr. Morgan indicate how long he had been associated  
23 with his cocaine source of supply he identified as Oscar?

24 A For approximately two years.

25 Q Did Mr. Morgan indicate how many kilograms of cocaine he



1 had previously been provided by his source of supply named  
2 Oscar?

3 A He could not give us an exact number, but he did state that  
4 it was over 150 kilos.

5 Q And you also indicated that prior to his knowledge of being  
6 arrested in January of this year, he had previously arranged to  
7 purchase 20 kilograms of cocaine from his source of supply. Is  
8 that correct?

9 A That is correct.

10 Q What did you and other law enforcement agents do with that  
11 information?

12 A At that time I asked him for the phone number of this  
13 individual named Oscar, which he provided. I also -- he  
14 conducted telephone -- immediately that evening started making  
15 telephone calls to Oscar -- it was consensually recorded -- and  
16 asking Oscar if everything was good, and basically Oscar agreed  
17 everything was good, that it would be delivered on Thursday,  
18 and that they were supposed to contact each other on Thursday  
19 morning to arrange for a time period for them to meet.

20 And where that comes into play is Demontre told us that  
21 they were very time-sensitive, that normally when they did it  
22 they tried to arrange that both individuals would show up at a  
23 house on Weather Vane. He actually took us to that house on  
24 Weather Vane and pointed it out. And he said that they would  
25 -- the morning that they would make the delivery or the evening

1 they would make the delivery that they would coordinate with  
2 each other and time it to where they both arrived at the  
3 residence close to each other.

4 Q In your discussions with Mr. Morgan, did he indicate  
5 whether or not his source of supply actually lived at the  
6 Weather Vane residence?

7 A He told us that he didn't believe the individual known as  
8 Oscar did live at the Weather Vane residence, that that house  
9 was used primarily for the storage of cocaine and that once --  
10 and for the delivery of cocaine.

11 Q All right. And did he indicate to you how the process  
12 worked as far as when he called and said he had the money and  
13 was ready to pick up cocaine, what happened next?

14 A He did. He said, once he made a phone call, that he would  
15 chirp him. And what he's talking about chirp him, they had a  
16 radio phone or a push-to-talk phone that they used. And that  
17 he would place a phone call to him, tell him he was almost  
18 there. He said about -- they would open the garage, that he  
19 would pull up into the garage of that residence, that Oscar  
20 would come out into the garage area and look in the trunk to  
21 see if the money was there. Once he saw that the money was  
22 there, then he would go back inside the residence, obtain the  
23 cocaine, and he would come out, and they would make the  
24 exchange in the garage.

25 Q You indicated that law enforcement agents actually went to

1 that Weather Vane stash location. Is that correct?

2 A That is correct. On the 17th is when Demontre took us and  
3 pointed out the location. We immediately then put out a -- or  
4 my boss did, put out a broadcast out to everybody to go by that  
5 residence, start doing drive-bys and surveillance on it. On  
6 Wednesday, Task Force Officer Jason Ford (phonetic) observed  
7 Oscar at that location driving a maroon-colored Toyota Tacoma,  
8 I believe it was. The registration actually came back to Oscar  
9 Gonzalez. At that point we were able to identify and get a  
10 picture of Oscar Gonzalez based off the surveillance.

11 Q All right. The individual -- and was Demontre Morgan able  
12 to positively identify that Oscar Gonzalez as his cocaine  
13 source of supply?

14 A He was. We obtained a picture of Oscar Gonzalez and showed  
15 that photo to Demontre and he identified that Oscar Gonzalez  
16 was in fact the Oscar that he knew that had been delivering the  
17 cocaine.

18 Q The individual that Demontre Morgan identified as his  
19 source of supply that he knew as Oscar, is he the same  
20 individual that law enforcement agents saw at the Weather Vane  
21 residence at the time that surveillance was being conducted?

22 A It is. We also showed the picture to Task Force -- Jason  
23 Ford, and he identified that it was the same individual that he  
24 had seen in the truck.

25 Q The individual that Demontre Morgan identified as his

1 cocaine source of supply and the individual that law  
2 enforcement agents identified at the Weather Vane stash house,  
3 do you see him in this courtroom today?

4 A I do.

5 Q Would you point him out and describe an article of clothing  
6 he's wearing?

7 A He's wearing orange and he's sitting to -- at the table  
8 with Mr. Lechtenberger.

9 MR. CALVERT: Your Honor, we'd ask the record reflect  
10 that the witness has identified the Defendant, Oscar Gonzalez.

11 THE COURT: The record will so reflect.

12 BY MR. CALVERT:

13 Q And I don't want to jump too far ahead, but have you had an  
14 occasion to speak with Mr. Gonzalez since he was placed in  
15 custody?

16 A Once he was arrested that night and brought -- I met them  
17 at the Drug Enforcement Administration and I was able to talk  
18 to him there.

19 Q Do you know whether or not Mr. Gonzalez has gold teeth?

20 A He does have.

21 Q All right. And is that consistent with the information  
22 that was provided to law enforcement from the individual  
23 involved in this investigation up in the Eastern District of  
24 Virginia as being the individual that was providing all of the  
25 cocaine?

1 A It is.

2 Q In regard to the consensually-monitored phone calls,  
3 approximately how many phone calls were made between Demontre  
4 Morgan and the Defendant?

5 A There was approximately eight to ten phone calls made over  
6 a period of time.

7 Q And I know you touched on it, but can you specifically tell  
8 the Court what was the nature of those phone calls, what were  
9 they talking about?

10 A When the initial phone calls started on the night of the  
11 arrest, the first phone call was basically, was everything  
12 good? Did they have the stuff? He said it would be there on  
13 Thursday. On Thursday morning, we got Demontre out, brought  
14 him to the United States Attorney's Office. He made additional  
15 recorded calls, and it's where Oscar told him that the package  
16 had not been dropped yet, that it would be on Saturday before  
17 they would be able to take possession of it.

18 During the phone call as well, Demontre asked him, he said,  
19 hey, since it's going to be Saturday, I'm having to turn the  
20 guys around. He was under the impression that people were  
21 coming to pick it up, as they had always done, from Virginia.  
22 He said, my guys are almost here. I'm going to have them go  
23 back. He said, can you throw another one on the top for a  
24 total of 21? And Oscar at that point agreed to do so.

25 There was other phone calls subsequently after that where

1 they talked about the meeting place. I actually had Demontre  
2 record a call with him stating that he would not be able to  
3 pick up the cocaine on Saturday -- and that was because the  
4 U.S. Marshal's Office wouldn't allow us to get him out of  
5 Seagoville -- and that it would be Monday morning, and Oscar  
6 agreed to that.

7 We brought him back to the U.S. Attorney's Office on Monday  
8 morning, and -- where we started making or attempting to make  
9 other recorded phone calls, and at that point Oscar's phone  
10 shut down.

11 Q All right. And did you have reason to believe at that  
12 point in time that Mr. Gonzalez, the Defendant, had somehow  
13 found out that Demontre Morgan was in custody?

14 A Yes.

15 Q And did you have reason to believe that he had thrown his  
16 phone away?

17 A Yes, we did.

18 Q All right. And is that a common practice, in your 20 years  
19 of experience in investigating drug trafficking organizations,  
20 that they do that?

21 A It is very common.

22 Q And you touched on it: Did it also complicate matters, as  
23 far as utilizing Mr. Morgan, in that at the time that he was  
24 communicating with the Defendant, Mr. Morgan was in custody  
25 with the United States Marshal's Service?

1 A It did.

2 Q At the time that the phone calls were being made between  
3 Mr. Morgan and Oscar, did you or any other law enforcement  
4 agent seek out any type of court order authorizing the tracking  
5 of a cell phone ping?

6 A We did.

7 Q And just briefly tell the Court how that works.

8 A We wrote an affidavit and took it to a state district judge  
9 who authorized the tracking of the GPS of a Sprint cell phone,  
10 which was the same phone that we were making recorded calls  
11 with, and we were able to activate that phone and was able to  
12 follow the whereabouts of Oscar Gonzalez.

13 Q All right. And did the data that you obtained as a result  
14 of that cell phone track show that that phone was being  
15 utilized in or around the Weather Vane stash house?

16 A It did.

17 Q Did it also show that that phone was being utilized at or  
18 around the actual residence where Oscar Gonzalez actually  
19 lives?

20 A It did, which was an apartment complex off Garland Road and  
21 Magellan area in Dallas, Texas.

22 Q At some point in time, did law enforcement agents seek and  
23 were granted a search warrant for the Weather Vane address?

24 A Yes, we did.

25 Q When did that take place?

1 A That would have occurred on Monday.

2 Q All right. And in conjunction with that search warrant,  
3 did law enforcement officials in the Eastern District of  
4 Virginia swear out a criminal complaint in that district in  
5 regard to naming this defendant, Oscar Gonzalez, as a defendant  
6 in a one-count information, criminal information? Or excuse  
7 me, a complaint?

8 A They did.

9 Q Do you know when that warrant became active?

10 A I believe that warrant was active on that Friday. And I'm  
11 losing track of my dates, but it would have been that Friday  
12 after Demontre's arrest.

13 Q All right. And it was before the search warrant was  
14 executed. Is that correct?

15 A That is correct.

16 Q When was the search warrant executed?

17 A It was executed Monday at approximately 10:45 a.m.

18 Q Please tell the Court about the execution of that search  
19 warrant.

20 A At the search warrant location, we went in and conducted an  
21 ion scan, which is a scientific instrument that's used by the  
22 Drug Enforcement Administration and it collects particles in  
23 different areas of the house off of cardboard boxes, out of  
24 plastic containers that are commonly used to store narcotics.  
25 And the results of that ion scan by the DEA laboratory showed



1 that there was high concentration of cocaine in two of the  
2 rooms of the location, as well as, the garage, there was a high  
3 concentration of methamphetamine that was located in containers  
4 that was located in the trash in the garage area.

5 Q Who was present at the time that the search warrant was  
6 conducted at the Weather Vane address?

7 A There was no one there.

8 Q All right. How many vehicles were located at that  
9 location?

10 A There was no vehicles located.

11 Q All right. Did you ultimately locate the Defendant, Oscar  
12 Gonzalez?

13 A We did.

14 Q Please tell me where he was located.

15 A He was located in an apartment complex there off of  
16 Magellan and Garland Road.

17 MR. CALVERT: Your Honor, may I approach the witness?

18 THE COURT: Yes.

19 BY MR. CALVERT:

20 Q Sir, I'm going to show you a series of photographs I've  
21 marked as Government's Exhibit 1, 2, 3, 4, 5, 6, 7 and 8. Do  
22 you recognize those photographs?

23 A I do.

24 Q Please tell the Court what those photographs are.

25 A These are photos that were provided to me from the agents

1 that were at that apartment during the arrest, and there are  
2 several weapons that were located at the residence or in a  
3 vehicle that was in the garage of that apartment complex.

4 Q Do these photographs fairly and accurately depict what  
5 they're intended to depict?

6 A Yes, they do.

7 MR. CALVERT: Your Honor, at this time the Government  
8 would offer Government's Exhibits 1 through 8, please.

9 MR. LECHTENBERGER: May I, Judge?

10 THE COURT: Yes.

11 (Pause.)

12 MR. LECHTENBERGER: Mr. Calvert showed these to me  
13 before you hit the bench, Your Honor. No objections.

14 MR. CALVERT: May I publish --

15 THE COURT: They're admitted.

16 (Government's Exhibits 1 through 8 are received into  
17 evidence.)

18 MR. CALVERT: May I publish to the Court, Your Honor?

19 THE COURT: Yes.

20 BY MR. CALVERT:

21 Q Agent, if you'll look with me at Government's Exhibit #1  
22 and please tell me what Government's Exhibit #1 is a photograph  
23 of.

24 A There is two different weapons that are located on here.  
25 One is a snub-nosed revolver and the other one is a Kel-Tec

1 assault rifle. And the bottom picture is the Kel-Tec assault  
2 rifle that is inside a bag.

3 Q All right. And all of these -- is this a photograph of  
4 three separate weapons or two separate weapons?

5 A It's actually two separate weapons.

6 Q All right. And were both of these weapons found in the  
7 apartment of the Defendant, Oscar Gonzalez?

8 A They were either found in the apartment of the -- I believe  
9 the revolver was found in the apartment, and either the Kel-Tec  
10 was found in the back of the vehicle that was located in the  
11 garage, or inside the apartment.

12 Q Please take a look at Government's Exhibit #2. What is  
13 depicted in Government's Exhibit #2?

14 A The pictures on the top left is a tactical flashlight and  
15 it appears that it has a laser mounted to that light, which is  
16 commonly used in combat situations or in tactical situations by  
17 law enforcement, and we are starting to see some of these  
18 lights that are being found among drug traffickers.

19 MR. LECHTENBERGER: That would be nonresponsive and I  
20 would object to that last comment by the witness, Your Honor.

21 THE COURT: Okay. That objection is sustained. And  
22 if you want to ask him separately about it, go right ahead.

23 MR. CALVERT:

24 Q Where was this weapon located, if you know?

25 A This weapon here was located in a Escalade that was parked

1 inside the garage of the apartment. The weapon is an assault  
2 rifle, .223 caliber, that has a forearm grip on it and also a  
3 collapsible stock. This type of weapon is also either used in  
4 combat, by police officers, or military.

5 Q Based on your prior training and experience and  
6 investigations of drug trafficking organizations, is this  
7 commonly a weapon of choice by drug traffickers?

8 A It is.

9 Q Would you take a look at Government's Exhibit #3 and tell  
10 the Court what that depicts?

11 A In the top left it appears to be a bag. There is two what  
12 appears to be possibly 120- and 130-round magazine there laying  
13 on the ground. Inside the bag you will see another magazine  
14 that is a drum-style magazine. I believe that's probably a  
15 total of 50 rounds in each side of that, which would be a total  
16 of 100-round magazine that's shown there.

17 Q That 100-round magazine that was located in that bag, first  
18 of all, where was it -- where were these exhibits located, if  
19 you know?

20 A I believe these was also in the Escalade truck.

21 Q Is that magazine sometimes referred to as a street sweeper?

22 A It is.

23 Q Please tell the Court why it's referred to as a street  
24 sweeper.

25 A Large-capacity magazine, multiple rounds, to where they do

1 not have to reload and they have several rounds that they can  
2 spray out over a large area.

3 Q In your prior training and experience in investigating drug  
4 trafficking organizations, is it common for drug trafficking  
5 organizations to utilize these types of magazines?

6 A It is.

7 Q Government's Exhibit #4, what does that depict?

8 A This is also the bag. The top right-hand corner, if you'll  
9 see the bag, is where there was at least four 30-round  
10 magazines that were inside that bag. On the bottom part of it,  
11 you will see where they have got the -- says M-16 magazine  
12 there, displaying what type of magazine that is.

13 Q Government's Exhibit #5?

14 A Is more pictures of the .223 caliber assault rifle in the  
15 case, and then it's just a closer shot where it's an Inter Arms  
16 (phonetic) made out of Houston, and the caliber that it is as  
17 well.

18 Q Government's Exhibit #6?

19 A Is a Glock box. I believe there was a Glock 9 millimeter  
20 pistol also found there in the house. There is, to the right  
21 of that, is three large-capacity magazines for that Glock. The  
22 bottom is another picture of the assault rifle. And then over  
23 to the right is a picture of that box with a revolver in it.  
24 To the right of that revolver is Glock magazines for a semi-  
25 automatic pistol.

1 Q And Government's Exhibit 7 and 8?

2 A 7 is the revolver again pictured. It was located. And  
3 then the bottom is the three Glock magazines with the rounds  
4 that were found there in the magazines.

5 Exhibit 8 is just a closer shot up of the Charter Arms  
6 revolver with the serial number.

7 Q Based upon -- and I know you touched on this a little bit  
8 earlier -- based upon your prior training and experience, is it  
9 common for individuals that are engaged in the trafficking of  
10 cocaine, methamphetamine, or other controlled substances to  
11 utilize multiple cellular telephones?

12 A It is.

13 Q And Mr. Gonzalez was using utilizing a cellular telephone  
14 in this case so as to communicate with Demontre Morgan. Is  
15 that correct?

16 A Actually, he used two separate cell phones to contact  
17 Demontre and actually had him go to the push-to-talk or the  
18 radio phone because drug traffickers commonly feel safer with a  
19 radio phone as opposed to a regular phone.

20 Q Did -- was -- at the time that Mr. Gonzalez was placed  
21 under arrest, were any cell phones recovered?

22 A There was approximately nine cell phones recovered. One of  
23 them was recovered inside a planter, actually inside the dirt,  
24 as it was -- appeared to have been hidden.

25 Q Were other cell phones located where the SIM card had been

1 pulled out and discarded?

2 A There was at least two -- I've been told by the officers  
3 there, there was at least two cell phones that were located  
4 where the SIM cards had been removed.

5 Q Did -- and you had mentioned this earlier as well. You did  
6 in fact have an occasion after Mr. Gonzalez was placed in  
7 custody and advised of his Miranda warnings to talk to him. Is  
8 that correct?

9 A We did.

10 Q During the period of time that you met with Mr. Gonzalez,  
11 did you play him one of the calls where he discusses providing  
12 20 kilograms of cocaine to Demontre Morgan?

13 A I did.

14 Q Did he ever deny that that was him talking to Mr. Morgan?

15 A No.

16 Q Did you bring up with Mr. Gonzalez the fact that all these  
17 weapons were found either at his residence or at cars that  
18 could be linked back to him?

19 A Yes.

20 Q Did he in fact admit that those weapons belonged to him?

21 A Yes. He said that he liked weapons and he had bought these  
22 at a gun show.

23 MR. CALVERT: I'll pass the witness, Your Honor.

24 Thank you.

25 THE COURT: Mr. Lechtenberger?

1 CROSS-EXAMINATION

2 BY MR. LECHTENBERGER:

3 Q Based on the last question by the prosecutor, would it be  
4 fair to say and would you agree with me that all those weapons  
5 are legal?

6 A Yes, sir, to my knowledge. I have not tested them for  
7 being fully automatic. We have turned them over to ATF for  
8 testing. But to my knowledge as of right now, the assault  
9 weapons are semi-automatic.

10 Q Certainly, Agent, you know what an auto sear is, correct?

11 A I do.

12 Q And certainly when you eyeball 1 through 8 inclusive, you  
13 could probably tell readily whether there was an auto sear?

14 A Well, without going into it internally, I cannot tell that  
15 due to the fact that we have had several weapons recently that  
16 were purchased as semi-automatic weapons that has been worked  
17 on and made fully automatic.

18 Q In this situation, though, at this point in time, on the  
19 present day, you can't tell that they are illegal, correct?

20 A That is correct.

21 Q So, in other words, if you and I were just Joe Smith  
22 walking down the street, we could go to Ray's Gun Store on  
23 Sylvan and purchase 1 through 8. Would that be fair to say?  
24 Legally?

25 A That is true.



1 Q So none of these guns have suppressors. None of them to  
2 your knowledge at this point are fully auto. They're not  
3 short-barrel firearms. Correct?

4 A That is correct.

5 Q So, in other words, if I was to mention 18 U.S.C. 924, you  
6 would recognize that law as what ATF and the gun federal laws.  
7 Correct?

8 A That is correct.

9 Q And you have not charged, nor has the Eastern District of  
10 Virginia, charged Mr. Gonzalez with any type of gun violation?

11 A Not at this point, no, sir.

12 Q Incidentally, did Mr. Morgan, your, I guess, confidential  
13 informant at this juncture, did he ever say words to the effect  
14 that Mr. Gonzalez was somehow a violent person and used these  
15 guns with his violent propensities?

16 A He told us that he was fearful of Mr. Gonzalez. That is  
17 basically what he said.

18 Q Well, but quite frankly, in our line of business, everyone  
19 who turns over to the Government sometimes is going to say  
20 that. Right?

21 A A lot of them do. That's correct.

22 Q Okay. And most of the time, the vast majority of the time,  
23 in fact, nothing ever happens? That's just kind of word out on  
24 the street, correct?

25 A I wouldn't say anymore that it doesn't happen. We're

1 starting to see where happens more often now than it used to.

2 Q Well, as an agent and an officer of the Court, you've run  
3 an NCIC and a TCIC on Mr. Gonzalez, right?

4 A I have.

5 Q Okay. The bottom line is no criminal record?

6 A There is no criminal record.

7 Q Other than perhaps a misdemeanor for not having a good  
8 driver's license at one point in time?

9 A That is correct.

10 Q Now, you indicated to the judge you used to work for the  
11 State, the D.A.'s office?

12 A I did.

13 Q And those offenses, as far as driving with a license  
14 suspended, are either a ticket offense or a Class B misdemeanor  
15 offense, correct?

16 A That is correct.

17 Q So it's kind of just a rinky-dink deal, right?

18 A I don't know whether you -- yes, sir, what's on his  
19 criminal history is a, I believe, actually, a Class B  
20 misdemeanor.

21 Q Mr. Morgan, as far as NCIC, does he have any theft or moral  
22 turpitude offenses that would impact his ability to tell the  
23 truth to you?

24 A He has got a criminal record, yes, sir.

25 Q Well, specifically, does it have any type of impingement on

1 his character? That is, any theft offenses, stealing anything,  
2 fraud?

3 A I believe he does have a fraud charge on there, as well as  
4 an assault charge.

5 Q So when you let the Court know about the reliability of  
6 Demontre Morgan -- and he has an alias, right, and it's  
7 Silverback?

8 A That is correct.

9 Q That he goes by Silverback on the street?

10 A Yes, sir.

11 Q And when you relay the credibility or trustworthiness to  
12 Mr. Morgan, does it factor into play what he says in  
13 relationship to a moral turpitude offense?

14 A It would have factored into play if we didn't have the  
15 recorded phone calls and the documents located in the house.  
16 And the things that he was able to say, we were able to  
17 corroborate.

18 Q Has it ever come to pass, in your 20 years of doing this,  
19 that perhaps a confidential informant who may have a moral  
20 turpitude offense says it's cocaine, and then lo and behold it  
21 turns out it's not cocaine but it's marijuana? Has that ever  
22 happened?

23 A It has happened. Yes, sir.

24 Q So, when you've talked about eight to ten phone calls, was  
25 the word specifically kilo, K-I-L-O, ever mentioned?

1 A The word 21 was. I don't remember the word kilo actually  
2 ever being mentioned.

3 Q Was the word "cocaine" ever mentioned?

4 A No.

5 Q Would it surprise you to know that Mr. Gonzalez's  
6 contention would be that he was selling, he did tell you the  
7 truth, as you testified moments before, but he was selling  
8 marijuana as opposed to cocaine? Would that surprise you?

9 A Yes, sir, it would.

10 Q Now, would a 21-pound or 21-kilo marijuana case be a big  
11 deal in federal court?

12 A 21-kilo marijuana case?

13 Q Yes, sir.

14 A It would be a federal crime. If you're asking if the  
15 cocaine would be a bigger charge, then -- the cocaine? Is that  
16 what you're asking?

17 A Yes, sir. Well, let me phrase it this way. I mean, you're  
18 familiar with the sentencing guidelines and mandatory minimums,  
19 right?

20 A I am.

21 Q Okay. So if I were to say roughly 150 kilos would be  
22 roughly 38, the judge would know what I'm talking about, you  
23 would know what I'm talking about?

24 A That is correct.

25 Q Compare and contrast that to, say, 21 pounds or kilos of

1 marijuana. That may put us at, what, Level 16, Level 14, give  
2 or take?

3 A Yes, sir.

4 Q You wouldn't dispute that, right?

5 A No, sir.

6 Q So it's a game-changer, especially for the Eastern District  
7 of Virginia, if lo and behold this turns out to be marijuana  
8 and not cocaine, right?

9 A It would be, for them.

10 Q Okay. So let's talk about that a little bit. The ion  
11 scanner that you mentioned to the judge at this Weather Vane  
12 place, you said you did an ion scanner, or someone did. Right?

13 A Yes. The DEA laboratory did.

14 Q Well, who was it? Was it a technician? Was it a chemist?  
15 Who actually did it?

16 A It was a DEA --

17 Q I don't --

18 A It was a DEA chemist.

19 Q Would it be fair to say, just from your 20 years of  
20 experience and knowing about ion scanners -- and you know that,  
21 right?

22 A Yes, sir.

23 Q That if I was to give you an example about walking in, say,  
24 this courtroom, and we did an ion scan on this carpet, could it  
25 possibly have traces of cocaine on it?

1 A It could, but I don't think they would be to the -- I'm  
2 looking for the right word -- I don't think they would be as  
3 high a level as they found in that house.

4 Q Do you have that report with you, by chance?

5 A No, I don't.

6 Q If I was to open up my billfold and pull out some currency,  
7 I mean, you've heard scientists and you've been in trials where  
8 there's traces of cocaine on all currency.

9 A On a lot of currency, yes, sir.

10 Q So a person like me, who doesn't use drugs, who's not a  
11 drug dealer, who's a criminal defense lawyer, I may show you a  
12 \$100 bill, a \$20 bill, a \$50 bill, and an ion scanner hits all  
13 over it. Right?

14 A That is correct.

15 Q Did you find anything in the Weather Vane location that was  
16 consistent with cocaine other than this ion scanner?

17 A Yes, sir.

18 Q What was that?

19 A Packaging material that was located in the house.

20 Q Like kilo wrappers?

21 A It'd be kilo wrappers or the Ziploc baggies that is  
22 consistent with putting cocaine in and wrapping it. Also, we  
23 also found Tupperware containers that was consistent with  
24 methamphetamine and the transportation of methamphetamine that  
25 also tested positive for methamphetamine.

1 Q Did it test positive for marijuana, by chance?

2 A We found no marijuana in the house, or residue of thereof.

3 Q Would you agree with me that wrappers and kilo wrappers are  
4 consistent with also marijuana usage or transportation?

5 A Yes.

6 Q Does Mr. Morgan smoke marijuana?

7 A Not to my knowledge.

8 Q Was a UA test given to see if he was hot when he was  
9 arrested?

10 A No, we do not normally do that when they're arrested  
11 immediately.

12 Q We established earlier that Mr. Gonzalez has no record,  
13 correct?

14 A That is correct.

15 Q And you did tell the judge that Mr. Gonzalez, when he  
16 discussed things with you -- and you Mirandized him, right?

17 A Yes, sir.

18 Q So he freely talked to you at that juncture and did not  
19 deny that that was his voice on the phone call?

20 A He never denied -- he never admitted or denied to it.

21 Q Well, he --

22 A He -- he --

23 Q I'm sorry. I apologize.

24 A He --

25 Q Go ahead, sir.

1 A We played the call for him and he did not deny that it was  
2 his voice.

3 Q Did it seem to you that he was resigned to the fact that  
4 you'd caught him?

5 A No, sir. Actually, after that fact I believe it is that he  
6 asked for his attorney and described who you were and we  
7 contacted your investigator at that point.

8 Q Yeah, I don't blend very well, do I? You picked right up  
9 on who he was asking for?

10 A When he said tall and first name Kirk, we kind of knew who  
11 it was.

12 Q Fair enough. Is it your information and your knowledge  
13 that the agents who did arrest Mr. Gonzalez would say that he  
14 was nice to them?

15 A No, sir.

16 Q He was not nice to them?

17 A No, sir.

18 Q Was he cooperative to you?

19 A He was cooperative to me.

20 Q Was he polite to you?

21 A He was.

22 Q Was he respectful to you?

23 A To me he was.

24 Q And certainly, as you indicated to Mr. Calvert on direct  
25 examination about throwing phones away, sometimes when people



1 throw phones away those people are going to flee, correct?

2 A At times, yes, sir.

3 Q This was not a situation or a dynamic with Mr. Gonzalez  
4 fleeing, because he was at his house with his wife, correct?

5 A That is correct.

6 Q And you know that his wife and his kids and his friends  
7 were there when that search warrant was executed, right?

8 A Yes, sir. A lady named Blanca was there. I was not  
9 present there at the time, but yes, sir, and there was two  
10 other individuals.

11 Q However, as the main case agent or one of the main case  
12 agents, you know that they opened the door for the agents, no  
13 hard time to the agents?

14 A According to the agents, they were given a hard time at the  
15 time of the arrest, and that they -- that Mr. Gonzalez was very  
16 rude to the agents.

17 Q Was that before or after the agents pointed the guns at his  
18 kids and Mr. Gonzalez?

19 A I don't know at which point. I just spoke with the agents  
20 that was there, and they indicated that he was very  
21 uncooperative to them.

22 Q In any event, no type of obstruction cases were filed or  
23 any type of assault of a federal official, correct?

24 A That is correct.

25 MR. LECHTENBERGER: Can I have a moment, Your Honor?

1 THE COURT: Yes.

2 (Pause.)

3 BY MR. LECHTENBERGER:

4 Q Agent, a few last -- a couple questions. Mr. Gonzalez,  
5 when you were doing his background check, did you see where he  
6 does not have a passport?

7 A Actually, I'm not the one who did that, and I have not seen  
8 the results of that yet.

9 Q He is a U.S. citizen, correct?

10 A To my knowledge, he is.

11 Q Were you able to verify that he has applied and committed  
12 -- or I should say completed -- 99 percent of a concealed  
13 weapons permit course about two years ago?

14 A I do not know that.

15 Q Thank you, sir.

16 MR. LECHTENBERGER: Thank you, Your Honor.

17 THE COURT: Okay. Mr. Calvert?

18 MR. CALVERT: Briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. CALVERT:

21 Q Agent, in your experience, when an individual chooses the  
22 life of a drug dealer, whether that be cocaine, methamphetamine  
23 or marijuana, does he run the risk of having law enforcement  
24 or, actually, worse, other drug dealers point weapons at he or  
25 his family?

1 A He does.

2 Q Is that a choice that he made?

3 A That is correct.

4 Q In your prior training and experience, do you have an  
5 opinion on whether an individual that provides upwards of 150  
6 kilograms of cocaine to a customer is a major distributor?

7 A He is a major distributor. Yes, sir.

8 Q Would you characterize Mr. Gonzalez as a major distributor?

9 A I would.

10 Q On a couple of occasions, you have referenced a witness in  
11 Virginia who, although he did not know the name of the source  
12 of supply, he identified him as a young Hispanic male with gold  
13 teeth. Do you recall that testimony?

14 A I do.

15 Q Do you know whether or not, in his discussions with law  
16 enforcement in Virginia, he referenced a marijuana deal or a  
17 cocaine deal?

18 A All the individuals involved in this conspiracy that has  
19 either gave testimony in the Virginia grand jury or has  
20 cooperated with law enforcement have indicated cocaine, and to  
21 my knowledge there has been no talk of marijuana.

22 Q All right. And do you know whether or not, off the top of  
23 your head, as a result of the investigation in Virginia,  
24 whether any type of seizures were made?

25 A There have been seizures made. I don't know to which --

1 what quantity, because they have been working on this for a  
2 long time, but I do know there have been seizures made, and it  
3 was cocaine.

4 Q All right. And Mr. Morgan, it would be a self-serving  
5 statement to him to say that he was trafficking marijuana up to  
6 Virginia. Would that not be true?

7 A It would be.

8 MR. LECHTENBERGER: Objection, speculation at this  
9 point.

10 THE COURT: I think he can answer that. Go right  
11 ahead.

12 BY MR. CALVERT:

13 Q Would that be true?

14 A That is true.

15 Q At all times, has Mr. Morgan been consistent with the fact  
16 that he provided the cocaine up in Virginia that is the target  
17 of this investigation?

18 A He has been, from the time we arrested him until current.  
19 Has never indicated that there was any marijuana involved, that  
20 everything that he transported was cocaine.

21 Q And did he also indicate that all of that cocaine came from  
22 Mr. Gonzalez?

23 A He did.

24 Q And as far as his truth or veracity, have you found  
25 anything in this investigation that that shown him to have not

1 been truthful in what he has told to either you or other law  
2 enforcement agents?

3 A I have not.

4 Q In regard to the kilo wrappers or the materials found at  
5 the stash house, you indicated they all tested positive for  
6 either cocaine or methamphetamine. Is that correct?

7 A That is correct.

8 Q The phone he indicated that Mr. Gonzalez was using, you  
9 found Mr. Gonzalez, at least at his residence, with nine cell  
10 phones. Is that correct?

11 A That is correct.

12 Q The vehicle that Mr. Gonzalez uses was eyed by surveillance  
13 officers at the stash house. Is that correct?

14 A That is correct.

15 Q And Mr. Gonzalez himself, as you've noted, has not denied  
16 that that is he making a drug-related telephone conversation  
17 with Demontre Morgan?

18 A That is correct.

19 Q Do you know whether or not this defendant is in any way  
20 gainfully employed?

21 A We have asked him that. He said that he is not employed,  
22 that he sells cars on the street. That he goes to the auction  
23 and gets cars and then he sells them out on the street at  
24 times. He did say that he was -- I believe it was his father  
25 or father-in-law he was helping with a tire shop, but that it

1 was not doing very well.

2 Q You did locate luxury items, however, at his residence. Is  
3 that correct?

4 A We did.

5 Q What types of things?

6 A There were, from my understanding from the agents there,  
7 there were high-dollar shoes. And I'm trying to think the name  
8 that they used. The name has left me. That there were several  
9 high-dollar --

10 Q Louis Vuitton? Gucci?

11 A Louis Vuitton. Gucci.

12 Q High-end retail?

13 A Very high-end retail items that were located in the house.

14 Q In your 20 or so, 20-plus years of investigating drug-  
15 related offenses, on few or many occasions have you utilized a  
16 Title III wiretap?

17 A We have.

18 Q Any idea how many times, how many Title III's you've been a  
19 part of?

20 A Several hundred.

21 Q All right. And in those several hundred Title III  
22 wiretaps, can you tell the Court how many times you intercepted  
23 a call where one drug distributor said to another, "I would  
24 like to order up some cocaine"?

25 A Never.

1 Q Thank you, sir.

2 MR. LECHTENBERGER: Conclude with --

3 THE COURT: Go right ahead.

4 RECROSS-EXAMINATION

5 BY MR. LECHTENBERGER:

6 Q As far as the word cocaine, however, if I mention the  
7 phrase to you "drug jargon," you would understand what that  
8 phrase means, correct?

9 A I do.

10 Q Everybody can have different interpretations, correct?

11 A Mainly the cocaine traffickers use certain jargon and the  
12 -- or, cocaine traffickers use certain words and marijuana  
13 traffickers use certain words.

14 Q So if I were to call my paralegal who's sitting with the  
15 pad in the chair and I say, "Florence, I need 20 shirts. Make  
16 that actually 21 shirts," that could mean theoretically 21  
17 kilos of cocaine, correct?

18 A That is correct.

19 Q It could mean theoretically 21 kilos of methamphetamine,  
20 correct?

21 A It could.

22 Q It could mean 21 kilos of marijuana, correct?

23 A I haven't heard shirts referred to as marijuana, honestly.

24 Q Just -- just take a noun, any noun.

25 A Right.

1 Q Tire. Shirts. Baseball bats. You name it.

2 A Is the possibility of it?

3 Q Yes, sir.

4 A Yes, sir.

5 Q And certainly when we talk about marijuana, a lot of people  
6 actually don't even use the metric system, they use the English  
7 system. So it would be 21 pounds if someone said, "Hey,  
8 Florence, 21 shirts." Correct?

9 A No, sir. Most of my experience in the wiretaps and  
10 conducting drug investigations, most large-scale drug  
11 traffickers use kilo quantities.

12 Q Well, the bottom line is this. Whether it's kilos or  
13 pounds, was there anything 100 percent that you can tell this  
14 judge under oath that lets you know in those conversations,  
15 those eight to nine to ten conversations, that it was kilos of  
16 cocaine versus kilos of marijuana?

17 A Based upon my experience, after listening to several  
18 hundred if not thousands of telephone calls, on the way they  
19 were talking to each other, there was no doubt they were  
20 talking about cocaine. If I didn't know what the situation was  
21 with either one of them, listening to the phone calls, I would  
22 have believed at that point that the conversation concerned  
23 cocaine.

24 Q Well, how about this. I was kind of hoping you were going  
25 to say sure, Kirk, if they talked some type of numbers.



1 Because you and I can have the agreement that a wholesale value  
2 of cocaine in Dallas is different than, say, a wholesale value  
3 of a kilo of marijuana in Dallas, right?

4 A That is correct.

5 Q Even if it's hydroponic marijuana, correct?

6 A That is correct.

7 Q Say with a high THC value of 20, 21 percent even. Correct?

8 A That is correct.

9 Q Okay. So, your knowledge base as far as marijuana in  
10 Dallas, hydroponic, 21 percent, my hypothetical, would be what  
11 for a pound? \$3,500? \$4,000?

12 A \$3,000 to \$4,000, depending on who they were getting it  
13 from.

14 Q Okay. And there's 2.2 pounds per kilo, correct?

15 A That is correct.

16 Q Okay. So, using your arithmetic, that would be about 10  
17 grand per kilo, correct? For marijuana?

18 A Correct.

19 Q Okay. So, in these eight to nine to ten conversations,  
20 were any type of amounts discussed? Money?

21 A Of money?

22 Q Yes, sir.

23 A No.

24 MR. LECHTENBERGER: That's all I have.

25 THE COURT: You may step down.

1 MR. CALVERT: Thank you, Your Honor. That's all we  
2 have. The Government rests.

3 MR. LECHTENBERGER: I have three brief witnesses, Your  
4 Honor.

5 THE COURT: Yes, sir. Go right ahead.

6 MR. LECHTENBERGER: I call Ms. Walker first, Your  
7 Honor.

8 (The witness is sworn.)

9 MR. LECHTENBERGER: May I proceed?

10 THE COURT: Yes.

11 WHITNEY WALKER, DEFENDANT'S WITNESS, SWORN

12 DIRECT EXAMINATION

13 BY MR. LECHTENBERGER:

14 Q Ms. Walker, up until about 30 minutes ago -- I apologize.  
15 I'm so sorry. Ma'am, could you state your record? State your  
16 record? Could you state your name?

17 A I don't have a record.

18 Q I apologize. Could you state your name for the Court,  
19 please?

20 A Whitney Anne Walker.

21 Q Ms. Walker, I just met you roughly an hour ago?

22 A Yes, sir.

23 Q However, we spoke yesterday?

24 A Yes, sir.

25 Q And there are a few rules in court, and I'll hope everybody

1 hears this. You've got to keep your voice up. Okay?

2 A Yes, sir.

3 Q You can't say uh-huh or huh-uh. Fair enough?

4 A Yes, sir.

5 Q And I don't mean that disrespectfully. I apologize. And  
6 if you don't understand a question, just say, "Kirk, I don't  
7 understand." Is that agreeable?

8 A Absolutely.

9 Q Ms. Walker, I contacted you because you know Oscar  
10 Gonzalez. Would that be fair to say?

11 A Yes, sir.

12 Q And I went over some rules that federal court has to  
13 follow. And we talked for probably about an hour yesterday.  
14 Would that be give or take correct?

15 A Yes, sir.

16 Q And I said that the judge would need to know certain things  
17 about the person's character or the person's physical and  
18 mental condition, family ties. And we covered that in pretty  
19 significant detail?

20 A Yes, sir.

21 Q To that end, how do you know Oscar Gonzalez?

22 A Well, I've known Oscar since he was about seven years old.

23 Q How so?

24 A His mother is one of my dear friends and has been an  
25 employee for 19 years. Also, eight of his other family members

1 have worked for me over the last 20 years. And I also know his  
2 family up to 26 years ago because I met Angelica, his mother,  
3 through another employee who is related to her. I know  
4 probably 40 family members. They don't drink alcohol. They go  
5 to church. They've very responsible. And I am completely  
6 surprised at -- well, excuse me.

7 Q Well, whether you're surprised or not, let's just go --

8 A Yeah.

9 Q -- with the tenor of some of the questions --

10 A Yeah.

11 Q -- in regards to Mr. Gonzalez's background. Would that be  
12 okay?

13 A I would never imagine any -- I'll be quiet. Thank you.

14 Q So, Ms. Walker, you had indicated that in your capacity, in  
15 your job, that you employ these folks.

16 A Yes.

17 Q What do you do for a living?

18 A I'm CEO of the Antique Drapery Rod Company. We make  
19 drapery hardware, household accessories.

20 Q In fact, is your father also here in the second row, along  
21 with some of the family friends in the first row and third row?

22 A Yes. He's the president and has been with our company for  
23 18 years.

24 Q And your father has a military background?

25 A Ex-Marine jet fighter pilot, Navy test pilot.

1 MR. LECHTENBERGER: Can I approach the witness?

2 THE COURT: Yes.

3 BY MR. LECHTENBERGER:

4 Q I'm showing you documents I've previously marked as Defense  
5 Exhibit #1 and 2. Do you recognize these documents, Ms.  
6 Walker?

7 A Yes, sir.

8 Q Does 1 reflect your job as well as Mr. Gonzalez's mother in  
9 one of the pictures?

10 A Yes.

11 Q And not to get in your personal space, ma'am, but does X  
12 mark the spot as far as Mr. Gonzalez's mother?

13 A Yes, it does.

14 Q Now, #2 is what?

15 A It's a letter that I generated. It's a very short letter  
16 of reference for Angelica and her family. As I said, they've  
17 worked for me off and on for 20 to 25 years. And they're very,  
18 very responsible, ethical. They're a very good family.

19 Q And does this go to how you know the character of Mr.  
20 Gonzalez as well as all of his family members and his ties in  
21 the community?

22 A Yes, sir.

23 MR. LECHTENBERGER: I show #1 and 2 to the Government.  
24 Move for admittance.

25 MR. CALVERT: No objection.

1 THE COURT: They're admitted.

2 MR. LECHTENBERGER: Publish to the Court?

3 THE COURT: Yes.

4 (Defendant's Exhibits 1 and 2 are received into evidence.)

5 BY MR. LECHTENBERGER:

6 Q We left off discussing that you've known the family for 20-  
7 plus years?

8 A Yes, sir.

9 Q You'd agree with me that perhaps you don't see Oscar on a  
10 day-to-day basis, but do you come in contact with him weekly,  
11 monthly?

12 A Monthly and at holiday parties sometimes. And also through  
13 his mom. She tells me what both Oscar and his sister are doing  
14 all the time.

15 Q And you recognize again the mother and the sister and --

16 A Yes.

17 Q -- Mr. Gonzalez's wife in the front row?

18 A Yes.

19 Q Would you describe Oscar Gonzalez as honest?

20 A Yes, sir.

21 Q As hard-working?

22 A Yes, sir.

23 Q As trustworthy?

24 A Yes, sir.

25 Q As intelligent?

1 A Yes, sir.

2 Q That he could follow rules?

3 A Yes, sir.

4 Q That he's courteous?

5 A And a very good son.

6 Q A good father?

7 A As far as I know, yes, sir.

8 Q Willing to comply with instructions, for instance, from a  
9 boss?

10 A Yes, sir.

11 Q Or willing to comply with instructions, say, as an example,  
12 from a judge?

13 A Yes, sir.

14 Q Ms. Walker, I asked you yesterday if I could use the verb  
15 choice "vouch" with you. Do you remember me talking to you  
16 about that?

17 A Yes, sir.

18 Q And you and I had the understanding that that word "vouch"  
19 means that you could represent honestly, truthfully, from your  
20 heart of hearts, --

21 A Uh-huh.

22 Q -- to the judge that this man, if the judge saw fit to give  
23 him a bond, will not do something stupid?

24 A I absolutely believe he would not do anything stupid, no.

25 Q And when I say stupid, that would mean, for instance, to

1 flee.

2 A Oh, no, he has children here.

3 Q That he would commit another offense?

4 A Of course not.

5 Q Or specifically as the Government alleges, that he would be  
6 some type of danger to the community?

7 A The entire family is very peaceful. Very peaceful.  
8 They're very sweet people.

9 Q Have you ever, to that extent, seen Oscar Gonzalez ever  
10 have violent propensities? That is, to be aggressive?

11 A No.

12 Q Provocative?

13 A No.

14 Q Or to use profane or foul language to someone who's in  
15 authority?

16 A No.

17 Q Now, I didn't go into great detail about this drug offense  
18 because, well, we were pressed for time. But you understand  
19 this is a significant drug offense?

20 A Yes.

21 Q I explained to you that the presumption unfortunately is a  
22 little bit against us?

23 A Yes, sir.

24 Q Thus the reason why I tried to discuss with you about  
25 vouching. Sometimes judges in this district and other



1 districts will say, and they'll turn to the person, "Okay,  
2 ma'am, I'm holding you responsible. I'm going to put  
3 electronic monitoring on him, I'm going to put GPS on him, I'm  
4 going to have him have a curfew, he's going to have to show up  
5 here once a week, and if he still has any type of driver's  
6 problems, you are going to have to drive him. Do I have that  
7 understanding with you?"

8 So if a judge, bottom line, --

9 A Uh-huh.

10 Q -- asked you that, would you say yes?

11 A Are you saying -- yes, yes, I would say he would be a very  
12 good boy. Did I answer that correctly?

13 Q You did.

14 A I mean, I don't -- I'm not sure I understood completely.

15 Q Ms. Walker, perhaps I didn't phrase it very artfully.

16 A Yeah. Yeah.

17 Q The bottom line is that your opinion of 20-plus years of  
18 Mr. Gonzalez is that he's not a danger to the community?

19 A No, he's a very nice young man.

20 Q He's not going to flee the community?

21 A No.

22 Q He'll do whatever the judge says?

23 A Yes, sir.

24 MR. LECHTENBERGER: Pass the witness.

25 THE WITNESS: Do I leave now?

1 THE COURT: No, ma'am.

2 CROSS-EXAMINATION

3 BY MR. CALVERT:

4 Q Ms. Walker, my name is Rick Calvert. I'm the Assistant  
5 United States Attorney. Thank you for being here today. Have  
6 you ever testified in a court before?

7 A No, sir.

8 Q I know it's a stressful situation and new to you. I'm not  
9 trying to trick you in any way. If I ask a question that you  
10 don't understand, just please ask me to rephrase it. Okay?

11 A Yes, sir.

12 Q I just have a couple of questions for you. You have  
13 characterized the Defendant as honest, correct?

14 A Yes, sir.

15 Q Hard-working?

16 A Yes, sir.

17 Q Trustworthy?

18 A Yes, sir.

19 Q Intelligent?

20 A Yes, sir.

21 Q A good son?

22 A Yes, sir.

23 Q How about law-abiding? Is he law-abiding?

24 A As far as I've always known, yes, sir.

25 Q All right. And that kind of puts me down the path that I

1 want to explore with you next. Would you agree with me that  
2 you can think you know a person's character and you can think  
3 you know whether they're honest and trustworthy and intelligent  
4 and a good son and don't drink alcohol and go to church, when  
5 the reality is they're very different from what you think they  
6 are? That can happen, correct?

7 A Theoretically, yes, sir.

8 Q All right. And you've sat here in court today throughout  
9 this entire proceeding. Is that correct?

10 A Yes, sir.

11 Q And you have heard defense counsel come up here and admit  
12 that the man that you identify as honest, hard-working,  
13 trustworthy, intelligent, good son, and law-abiding is a drug  
14 dealer. Correct?

15 A I don't --

16 Q He has admitted that he was distributing marijuana, not  
17 cocaine? You heard that, correct?

18 A I may not have interpreted it exactly that way.

19 Q All right. Well, let me ask you hypothetically. Let's say  
20 that defense counsel's position in this hearing is that, yes,  
21 Oscar Gonzalez is a drug dealer and he distributes marijuana,  
22 but he does not distribute cocaine. Just assume that for me,  
23 okay? Would that not change your view that you know this man  
24 to be a law-abiding man?

25 A He has never been in any kind of trouble his entire life.

1 Q And ma'am, I understand that, and that's not my question.  
2 And again, I'm not trying to trick you, and maybe I didn't ask  
3 it correctly. Let me ask it again. And it really just calls  
4 for a yes or no answer.

5 A Okay.

6 Q If you learned today hypothetically that the fact is that  
7 the Oscar Gonzalez you thought you knew is a drug dealer,  
8 whether that be a marijuana distributor or a cocaine  
9 distributor, would that change your perception and view of him  
10 that he is law-abiding, trustworthy and honest?

11 A If that were true.

12 Q Okay. That's fair enough. Thank you, ma'am. Do you know  
13 whether -- do you know where Mr. Gonzalez lives?

14 A I know roughly.

15 Q And it's an apartment complex over off of Garland Road. Is  
16 that correct?

17 A I've never been there.

18 Q Do you know -- well, when you say roughly, what do you mean  
19 by that?

20 A Well, I know there are apartment complexes off Garland Road  
21 that different family members live in that area.

22 Q All right.

23 A I've never been to that area.

24 Q Do you know why Mr. Gonzalez would utilize a residence at  
25 3017 Weather Vane Road?

1 A I don't know that that is Mr. Gonzalez's residence.

2 Q Well, you've heard testimony that he was there. You heard  
3 that, correct?

4 A That doesn't mean it's his property.

5 Q And again, maybe I'm misphrasing the question. Do you know  
6 why he would be at that location?

7 A I have no idea why.

8 Q If I told you that bills and paperwork with his name on it  
9 and his address over at the Magellan apartment complex were  
10 found all inside that Weather Vane residence, do you know why  
11 that would be?

12 A No, sir.

13 Q If I told you that Mr. Gonzalez, the individual again  
14 you've identified as honest, hard-working, trustworthy,  
15 intelligent, law-abiding, and a very good boy, was intercepted  
16 and recorded talking to a convicted felon about distributing  
17 either 20 kilograms or pounds of marijuana or 20 kilograms of  
18 cocaine, would that make you rethink how well you know him?

19 A I would be extremely surprised to find that was true.

20 Q And if it was, you would agree with me you don't know him  
21 nearly as well as you thought you did? True?

22 A Of course.

23 Q What does Mr. Gonzalez do in his free time?

24 A I know that he runs -- is part of the family tire shop.

25 Q Okay. Is he an avid hunter?

1 A As far as I know, the entire family is very peaceful.

2 Q Okay.

3 MR. CALVERT: May I approach, Your Honor?

4 THE COURT: Yes.

5 THE WITNESS: Yeah.

6 BY MR. CALVERT:

7 Q Do you know anything about guns, ma'am?

8 A I shoot sporting clays at the Dallas Gun Club.

9 Q Great. Would you take a look at Governments Exhibit #1,  
10 and I'll ask you if you've ever seen firearms like that before.  
11 Especially the one in the top right. Do you recognize what  
12 that is?

13 A No. I'm sorry, I don't.

14 Q Okay. If I told you that was an assault weapon that was  
15 found in a vehicle that belongs to the hard-working good boy  
16 that you've characterized here in court today, would you know  
17 what he would use that for?

18 A No, sir, but I do know that some people collect guns like  
19 that.

20 Q All right. Let me flip over to Page 2. Here's another  
21 assault weapon. Do you know why Mr. Gonzalez would have that  
22 particular weapon?

23 A Possibly because he's a young boy and he thinks it's cool.

24 Q Okay. And let's look over -- and I don't know if you were  
25 paying close attention, but on Government's Exhibit #3, do you

1 know what that top right-hand picture is? That's a 100-round  
2 drum called a street sweeper. Have you ever -- did you hear  
3 Agent Hale's testimony as to that?

4 A Yes, sir, I did.

5 Q All right. And did you hear Agent Hale testify that those  
6 types of devices are used so they can clip onto a gun and just  
7 randomly spray out in the street without needing to aim or  
8 reload? Did you hear him testify to that?

9 A Yes, sir. I've also seen semi-automatic rifles used dove  
10 hunting.

11 Q Yes, okay, and that's -- thank you, ma'am. Do you know Mr.  
12 Gonzalez to be an avid dove hunter?

13 A (no immediate response)

14 Q Yes or no?

15 A Not at this time, but --

16 Q Okay. And in the -- do you know any dove hunters?

17 A Many.

18 Q Many? Okay. And of those dove hunters, how many of those  
19 individuals take a 100-round clip and attach it to an assault  
20 rifle to shoot doves? How many do you know?

21 A I would -- I would say that there are some men who are very  
22 childish with guns and what they collect doesn't always make  
23 sense.

24 Q All right. Do you know anything about, from TV or movies  
25 or books you've seen, what type of weapons gun dealers -- gun

1 -- excuse me, drug distributors use?

2 A Absolutely not.

3 MR. LECHTENBERGER: At this point I would object to  
4 relevance. It's outside of the scope of my direct examination.

5 THE COURT: I'm going to sustain that.

6 BY MR. CALVERT:

7 Q How often did you see Mr. Gonzalez?

8 A Several times a year, if not more often. He takes very  
9 good care of his mother, but not in a pretentious way.

10 Q Thank you, ma'am.

11 MR. CALVERT: I'll pass the witness.

12 MR. LECHTENBERGER: Thank you, Ms. Walker.

13 THE WITNESS: Thank you.

14 THE COURT: No more questions?

15 MR. LECHTENBERGER: Ask that she be allowed to step  
16 down.

17 THE COURT: No more questions?

18 MR. LECHTENBERGER: Nothing further, Your Honor.

19 THE COURT: You may step down.

20 THE WITNESS: Thank you.

21 (The witness steps down.)

22 MR. LECHTENBERGER: I'd call Ms. Gonzalez, Mr.  
23 Gonzalez's mother.

24 (The witness is sworn.)

25 THE COURT: Ma'am, you need to speak up, because there



1 is a recording being made and it won't pick you up unless you  
2 speak up. You may need to pull the microphone down just a  
3 little bit.

4 PARSABANA ANGELICA GONZALEZ, DEFENDANT'S WITNESS, SWORN

5 DIRECT EXAMINATION

6 BY MR. LECHTENBERGER:

7 Q Ms. Gonzalez, you're going to have to speak up. Okay?

8 A Yes, sir.

9 Q Tell the Court your name again, please.

10 A My name is Angelica Gonzalez. I'm mother to Oscar  
11 Gonzalez.

12 Q Ms. Gonzalez, go real slow. You have a strong accent.

13 Okay?

14 A Yes.

15 Q And I know you're very emotional and nervous right now.

16 Yes?

17 A Yes, sir.

18 Q Okay. But you've got to keep your voice up. Fair enough?

19 A Yes, sir.

20 Q This is your son --

21 THE COURT: Before you --

22 MR. LECHTENBERGER: -- to my left?

23 THE COURT: Before you go on, --

24 THE WITNESS: Yes, sir.

25 THE COURT: -- will you please have her spell her

1 first name for us?

2 MR. LECHTENBERGER: I apologize.

3 THE COURT: Thank you.

4 BY MR. LECHTENBERGER:

5 Q Spell your first name, ma'am.

6 A My first name is Parsabana Angelica.

7 Q Okay. Go slowly and spell it.

8 A P-A-R-S-A-B-A-N-A.

9 MR. LECHTENBERGER: I'm sorry, Judge.

10 THE COURT: Go right ahead.

11 BY MR. LECHTENBERGER:

12 Q Is it okay if I refer to you as Ms. Gonzalez?

13 A Yes, sir.

14 Q How old is your son?

15 A Twenty-six.

16 Q Some of the same questions I asked Ms. Walker. Is he  
17 honest?

18 A Yes, sir.

19 Q Is he hard-working?

20 A Yes, sir.

21 Q Is he trustworthy?

22 A Yes, sir.

23 Q Is he intelligent?

24 A Yes, sir.

25 Q Tell me about Oscar Gonzalez, your son, as far as being a

1 good father.

2 A He's a good father.

3 Q Give me an example.

4 A He take the kids all the time. He play with them. And go  
5 to the park and play with them and --

6 Q Have you ever known your son, just recently, in the past  
7 couple weeks, to take his two children to Chuck E. Cheese?

8 A Yes, sir.

9 Q Does Oscar do his homework with his children?

10 A Yes, sir.

11 Q Has he been married to his wife for eight years?

12 A Yes, sir.

13 Q When you ask Oscar to do something, does he do it for you?

14 A Yes, sir.

15 Q Does he help you with chores around the house on the  
16 weekends?

17 A Yes, sir.

18 Q So, in other words, does Oscar follow the rules and  
19 instructions?

20 A Yes, sir.

21 Q Where do you live?

22 A I live in Pleasant Grove.

23 Q Do you see your son often?

24 A Yes, sir.

25 Q Now, the folks on the first row, other than my paralegal,

1 that's your daughter and that's your daughter-in-law?

2 A Yes, sir.

3 Q And the folks in the second and third row, those are family  
4 members? Your relatives and friends?

5 A Yes, sir.

6 Q And they're here to show Judge Toliver the support of the  
7 community?

8 A Yes, sir.

9 Q Have you ever seen your son abuse drugs?

10 A No, sir.

11 Q Have you ever seen your son abuse alcohol?

12 A No, sir.

13 Q Your son went to high school in Dallas?

14 A Yes, sir.

15 Q And he graduated?

16 A High school.

17 Q Bryan Adams High School?

18 A Yes, sir.

19 Q He was a B-minus student?

20 A Was good student.

21 Q Did he give you a hard time in high school?

22 A No.

23 Q If I ask you to promise the judge to look after, to take  
24 care of Oscar, could you do that?

25 A Yes, sir.

1 Q And the judge has a little bit of a tough decision that  
2 she's going to have to make. And I've talked to you about  
3 that?

4 A Yes, sir.

5 Q If the judge were to ask you and everyone else in the  
6 community to make sure that Oscar does what he's supposed to  
7 do, and the judge were to give Oscar a bond, --

8 A Yes, sir.

9 Q -- could you represent and tell the judge that that would  
10 be done, 100 percent?

11 A Yes, sir.

12 Q And even one small mistake would mean he comes back in here  
13 and he gets to go back to jail?

14 A Yes. I promise.

15 Q Where is the tire shop?

16 A Where?

17 Q Yes.

18 A In Pleasant Grove.

19 Q Is it doing okay or not so okay?

20 A Well, it's slow, but it's okay.

21 Q Did I ask you all to try to take some pictures of the tire  
22 shop today?

23 A I don't got right now.

24 Q So, we just didn't have time to take pictures, but we tried  
25 to?

1 A Yes, sir.

2 Q And also does your son go out and buy cars from time to  
3 time?

4 A Yeah, he buy cars.

5 Q The cars that Oscar buys, does he go to auctions or does he  
6 go to friends and buy these cars?

7 A Yes, sir.

8 Q Does he then, with his own hands, take those cars and  
9 rebuild them or rework them?

10 A Yes, sir.

11 Q Do you know what a salvage title is?

12 A No, sir.

13 Q Well, then don't worry about it.

14 MR. LECHTENBERGER: May I have a moment, Your Honor?

15 THE COURT: Yes.

16 (Pause.)

17 MR. LECHTENBERGER: Ms. Gonzalez, thank you, ma'am.

18 I'll pass the witness, Your Honor.

19 THE WITNESS: Yes, sir.

20 THE COURT: Ma'am, you have to be seated.

21 THE WITNESS: Oh, stay?

22 MR. CALVERT: The Government has no questions of Mrs.  
23 Gonzalez, Your Honor.

24 THE COURT: Okay. Now you can go.

25 THE WITNESS: Now I can?

1 THE COURT: You can step down.

2 THE WITNESS: Thank you.

3 (The witness steps down.)

4 MR. LECHTENBERGER: The third and last witness will be  
5 Ms. Gonzalez, the younger one, Your Honor.

6 May I have the Court's permission just to stand down for  
7 ten seconds, Your Honor?

8 THE COURT: Of course.

9 MR. LECHTENBERGER: Go on up, Ms. Gonzalez.

10 THE COURT: Just a minute, Angela, until he's --  
11 (Pause.)

12 MR. LECHTENBERGER: Thank you, Your Honor. That was  
13 ten seconds.

14 THE COURT: Okay.

15 (The witness is sworn.)

16 THE COURT: You need to speak up as well.

17 THE WITNESS: Yes.

18 THE COURT: Thank you.

19 VANESSA GONZALEZ, DEFENDANT'S WITNESS, SWORN

20 DIRECT EXAMINATION

21 BY MR. LECHTENBERGER:

22 Q Ms. Gonzalez, please state your name and spell it slowly.

23 A Okay. My name is Vanessa Gonzalez. It's spelled V-A-N-E-  
24 S-S-A.

25 Q Now, the other Ms. Gonzalez who just testified is your

1 mother?

2 A Right. Correct.

3 Q And the person to my left, Oscar, is your brother?

4 A Yes.

5 Q How old are you, ma'am?

6 A Twenty-four.

7 Q What do you do for a living, ma'am?

8 A I work for an attorney and a shoe store.

9 Q You work for an attorney and at a shoe store?

10 A Yes.

11 Q Now, I asked you earlier about the attorney. It's an  
12 immigration attorney?

13 A Yes.

14 Q What's his name or her name?

15 A Noel Anthony Suniga.

16 Q Have you ever testified before?

17 A No, I haven't.

18 Q A little bit nervous?

19 A Yes.

20 Q You mentioned that you sold shoes.

21 A Yes.

22 Q Just incidentally, if I were to mention the phrase knock-  
23 offs, would you know what that phrase means?

24 A Yes.

25 Q So if, I don't know, an agent said that there was Louis



1 Vuitton or Gucci shoes or purses, do we know if those were  
2 authentic or could they have been knock-offs?

3 A They could have been knock-offs.

4 Q Do people sometimes in your community, and no disrespect,  
5 but do they sometimes wear what appears to be high-end stuff  
6 and it's knock-offs?

7 A Yes.

8 Q Watches, even?

9 A Yes.

10 Q Suits, even?

11 A Yes.

12 Q Getting back on track and talking about Oscar, is he your  
13 older brother?

14 A Yes.

15 Q Did he in fact go to Bryan Adams High School?

16 A Yes.

17 Q Did he graduate?

18 A Yes.

19 Q B-minus?

20 A Yes.

21 Q Good student?

22 A Right.

23 Q Did he play sports in high school?

24 A No.

25 Q Kept to himself, or was he a popular young man?

1 A He was in between.

2 Q Now, he's been married to Blanca Sandoval for roughly give  
3 or take eight years?

4 A Yes.

5 Q And they've been together and they have a good marriage?

6 A Yes.

7 Q Two children?

8 A Yes.

9 Q How old?

10 A They're five and six.

11 Q Boy/girl, girl/boy?

12 A Boy and girl.

13 Q So you are the aunt?

14 A Yes.

15 Q Do you ever take care of the kids?

16 A Yes, with my mom.

17 Q Has it ever come to pass that you've gone over to your  
18 brother's house, your sister-in-law's house, and you all sat  
19 around and had some iced tea or had dinner?

20 A Yes. For holidays.

21 Q How does Oscar to that effect interact with his wife and  
22 his children?

23 A They're loving to each other.

24 Q Any drama?

25 A No.

1 Q Any guns?

2 A No.

3 Q Any violence?

4 A No.

5 Q Any foul language?

6 A No.

7 Q So much these days you hear in the news about family  
8 violence. None of that in this situation?

9 A No. He would never do that.

10 Q So if I were to ask you some legal questions about his  
11 physical and mental condition and his family ties, that would  
12 all be good?

13 A Yes.

14 Q Length of residence? Your brother's a U.S. citizen?

15 A Oh, yes.

16 Q And to your understanding, he has no criminal history?

17 A He doesn't have a criminal history.

18 Q Now, I did ask you about his concealed weapons permit.

19 A Right.

20 Q And you indicated that you had a little bit of knowledge  
21 about that.

22 A Yes.

23 Q Did your brother at some point in time, roughly give or  
24 take two, two and a half years ago, go and complete a concealed  
25 weapons permit course?

1 A Yes.

2 Q Do you have a concealed weapons permit?

3 A No, I don't.

4 Q And did I show you my concealed weapons permit?

5 A Yes.

6 Q And did I tell you that getting a concealed weapons permit  
7 means you have to go to the range?

8 A Uh-huh.

9 Q Now, you can't say "Uh-huh."

10 A Yes.

11 Q Okay. You shoot a gun. You've got to hit a target. Okay.  
12 Is that a yes?

13 A Yes.

14 Q You have to take a written test?

15 A Yes.

16 Q You have to fill out all the applications.

17 A Yes.

18 Q Correct?

19 A Yes.

20 Q Some people would say that when you do a concealed weapons  
21 permit that you're trying to follow the rules. Would you agree  
22 with that sentiment?

23 A Yes.

24 Q If I were to use the word "promise" with you, you would  
25 know what "promise" means?

1 A Yes.

2 Q And you've heard Ms. Walker testify, you've heard your  
3 mother testify. Can you also tell -- promise the judge that if  
4 the judge saw fit, whatever the condition may be, that Oscar  
5 Gonzalez is not going to give anybody a hard time?

6 A I promise, and he's not.

7 Q Specifically, the Government has said in this motion that  
8 he's a flight risk. Would he flee?

9 A No.

10 Q Would one of the reasons be that he's not going to flee  
11 because of his kids, his family, all these 15 or 16 people that  
12 are here? Would that be a reason he's not going to flee?

13 A Yes.

14 Q If the judge were to say, "Okay, Mr. Gonzalez, worst-case  
15 situation, you are going out to the Eastern District of  
16 Virginia. Pack your bags, catch a flight, and go out there a  
17 week from now," Oscar would do that?

18 A Yes.

19 Q In a worst-case situation?

20 A Yes. If the judge ordered, yes.

21 Q And what about safety of the community? Now, I asked you  
22 this in a different fashion before about violent propensities,  
23 but does anyone have anyone to fear with Oscar being out on  
24 bond?

25 A No, they don't.

1 Q Is Mr. Gonzalez, your brother, the type that's going to go  
2 out and pick a fight?

3 A No. He's very peaceful.

4 Q Okay. And certainly, you've just met me.

5 A Right.

6 Q Do you think that, with the judge's promise and my ability  
7 to talk to Mr. Gonzalez, it will be 180 percent that there's  
8 not going to be any type of issues if the judge were to see fit  
9 --

10 A Yes.

11 Q -- to give a bond?

12 A Yes.

13 Q And I explained to you that sometimes the judges in this  
14 district and other districts can put big GPS devices on their  
15 ankles. Would Oscar comply with that?

16 A Yes, he would.

17 Q Pay whatever the cost is?

18 A Yes.

19 Q What if the judge said, "Okay. You know what? I don't  
20 really have a problem with curfew, but still I want you home at  
21 8:00 o'clock." Would Mr. Gonzalez do that?

22 A Yes, he would.

23 Q What if the judge said, "I want you, Oscar, to go report  
24 once a week." Would Mr. Gonzalez do that?

25 A Yes, he would.

1 Q And he's not going to bellyache about it or give anybody a  
2 hard time?

3 A No, because he's responsible.

4 Q And when you say he is responsible, give me an example.

5 A He's always there for his kids and me and my mom and my  
6 dad, so --

7 Q So if he's the -- is he the type of person, kind of like my  
8 sister is, that when she says she'll be there on January the  
9 27th at 8:00 o'clock, that my sister shows up on January the  
10 30th at 10:00 p.m.? Oscar's not like that, is he?

11 A No, he's not.

12 Q If he says he's going to do something, is he righteous  
13 about doing it?

14 A He will, yes.

15 MR. LECHTENBERGER: May I have a moment, Your Honor?

16 THE COURT: Yes.

17 (Pause.)

18 BY MR. LECHTENBERGER:

19 Q Do you know anything about the 9191 Garland address that  
20 they live at, the "they" pronoun being he and his wife?

21 A Yes, I --

22 Q Have you been there?

23 A I've been there several times.

24 Q A little apartment?

25 A It's a medium-size apartment.

1 Q Does your sister-in-law carry or walk around with Gucci  
2 bags or with Louis Vuitton shoes?

3 A No, not that I know of.

4 Q In any event, do you know anything about an address over on  
5 Weather Vane?

6 A No.

7 Q Have you ever heard that address before?

8 A I've never heard of that address before.

9 Q Do you understand that Mr. Gonzalez, whether he is a  
10 trafficker in marijuana, whether he's a trafficker in cocaine,  
11 whether he's not a trafficker at all, the allegation right now  
12 is very, very important? Do you understand that?

13 A Yes.

14 Q And it carries a very significant penalty. Do you  
15 understand that?

16 A Yes.

17 Q Now, I've spoken to you about how serious this offense is,  
18 --

19 A Yes.

20 Q -- the allegation.

21 A Yes.

22 Q Nonetheless, can you tell the judge and promise her that  
23 everybody in the community is going to help Oscar if the judge  
24 sees fit that we've overcome the presumption and she gives any  
25 type of conditions on this planet or a combination of those



1 conditions? Could that happen?

2 A Yes. I promise.

3 Q Now, sometimes judges even put money bonds. That is, that  
4 you'd have to come up with \$10,000 or \$15,000. Could the  
5 family also work to get a bond?

6 A Yes. We will collect. We'll try to collect as much as we  
7 can.

8 Q And I told you that I could help you with a bonding company  
9 that does federal bonds. Do you remember talking to me about  
10 that briefly?

11 A Yes.

12 Q Ms. Gonzalez, I'm going to leave you with this question.  
13 How, in your heart of hearts, can you promise the judge that  
14 she's not going to have any problems with Oscar Gonzalez?

15 A I can promise without any hesitation.

16 Q How?

17 A Because he's a good person.

18 Q But you've heard what the agent said. You've heard how the  
19 AUSA has handled this. Correct?

20 A Right.

21 Q It doesn't --

22 A I don't --

23 Q It doesn't look good.

24 A In my heart of hearts, he's a good person.

25 Q Fair enough.

1 MR. LECHTENBERGER: I'll pass the witness, Judge.

2 THE COURT: Okay.

3 CROSS-EXAMINATION

4 BY MR. CALVERT:

5 Q Ms. Gonzalez, very briefly, would your brother ever  
6 associate with convicted felons?

7 A No.

8 Q In your mind, he would never do that, correct?

9 A I would think not.

10 Q All right. And you've heard testimony here today that he  
11 was recorded, recorded multiple times, discussing the  
12 distribution of either cocaine, marijuana, whatever drug you  
13 want to call it, but definitely drugs, with a not only  
14 convicted drug dealer -- excuse me, convicted felon, but also  
15 admitted drug dealer. You heard that today, correct?

16 A Yes.

17 Q If that's true, would that shock you?

18 A It would shock me, but --

19 Q And I understand. I have a sister and a brother as well.  
20 Let me just cut to the chase. Is it fair to say, no matter  
21 what I say to you or ask you, your opinion is going to stay the  
22 same, that your brother is a good person?

23 A Yes.

24 Q All right. And would your brother ever distribute any type  
25 of drug -- marijuana, cocaine, any type of drug?

1 A Not that I know of.

2 Q Would he ever possess multiple assault weapons?

3 A He, like they mentioned before, he does collect guns. And

4 I --

5 Q And what does he collect those for?

6 A Just a collection.

7 Q All right. And along with that are 100-round drums so that  
8 you could shoot 100 shots at a time. Does he collect those as  
9 well?

10 A If it's on the exhibit, then yes.

11 Q Why would he need that?

12 A For a collection.

13 Q And what are you going to do with a collection like that?

14 A Why do people collect?

15 Q Well, I assume if you collect cars you're going to take  
16 those cars out and use them.

17 A No.

18 Q Correct?

19 A No.

20 Q You're not? You're just going to sit them in your garage  
21 and do nothing with them?

22 A Jay Leno does it.

23 Q All right. If -- let's combine everything together, then.

24 If your brother is discussing distributing drugs with  
25 individuals, and he's possessing assault weapons, and he's

1 possessing 100-round drums, even if all that were true, and  
2 he's been linked to a stash house where scientific evidence  
3 exists showing that methamphetamine and cocaine was present,  
4 kilo wrappers, no matter what evidence is presented to you, you  
5 will never believe that your brother is a drug dealer. Fair to  
6 say?

7 A Yes.

8 Q Thank you, ma'am.

9 MR. CALVERT: Pass the witness.

10 MR. LECHTENBERGER: Nothing, Your Honor.

11 THE WITNESS: May I be --

12 THE COURT: Oh, I do have a few questions.

13 THE WITNESS: Yes.

14 THE COURT: It's weird here in federal court. We get  
15 to do that if we want to.

16 EXAMINATION BY THE COURT

17 THE COURT: You mentioned that you were familiar with  
18 your brother's apartment?

19 THE WITNESS: Yes.

20 THE COURT: Who lives at his apartment?

21 THE WITNESS: His two kids, his wife, and him.

22 THE COURT: And there has been mention of an Escalade.  
23 Is that your brother's car?

24 THE WITNESS: Yes.

25 THE COURT: Okay. Do you know what year it is?

1 THE WITNESS: I don't have any idea.

2 THE COURT: Do you know if his wife drives a different  
3 car, or --

4 THE WITNESS: My brother sells and collects cars, or  
5 and gets them from auction, so she drives numerous cars.

6 THE COURT: So, does he possess a lot of cars?

7 THE WITNESS: Yes, because of the auction and people  
8 who sell it to him.

9 THE COURT: How many cars would you say that he has?

10 THE WITNESS: I know he has maybe three or four.

11 THE COURT: Okay.

12 THE WITNESS: He sold the car that I have to me, so  
13 that's how I know.

14 THE COURT: What kind of cars does he have?

15 THE WITNESS: He has a little Toyota. They had a  
16 Lexus, a little SUV. And I think they sold that one. And the  
17 mention of the Cadillac.

18 THE COURT: Is the tire business your father's  
19 business?

20 THE WITNESS: It's both of theirs.

21 THE COURT: They own the --

22 THE WITNESS: Yes.

23 THE COURT: -- tire business together?

24 THE WITNESS: Uh-huh.

25 THE COURT: And do you know, what job does your

1 brother have at the tire business?

2 THE WITNESS: It's basically he runs it, with -- along  
3 with his wife's dad. Her -- yeah, his wife's dad.

4 THE COURT: So it's not your dad; it's his wife's dad  
5 he works in the --

6 THE WITNESS: Well, he works there.

7 THE COURT: -- business with?

8 THE WITNESS: They're all -- they all work together.

9 THE COURT: Your dad, your husband's wife's dad, --

10 THE WITNESS: Yes.

11 THE COURT: -- and your -- I mean, your brother's  
12 wife's dad?

13 THE WITNESS: Yes.

14 THE COURT: And your brother?

15 THE WITNESS: Yes.

16 THE COURT: Okay. Do you know, other than the tire  
17 shop and selling the cars, anything else that your brother does  
18 for a living?

19 THE WITNESS: No.

20 THE COURT: Does his wife work?

21 THE WITNESS: She does hair.

22 THE COURT: She's like a hair stylist, --

23 THE WITNESS: Yeah. She works --

24 THE COURT: -- a hairdresser?

25 THE WITNESS: Yes.

1 THE COURT: Okay. That's all the questions I had.

2 Does either side have questions based on what I've asked?

3 MR. CALVERT: Nothing from the Government, Your Honor.

4 THE COURT: Mr. --

5 MR. LECHTENBERGER: Thirty seconds, Your Honor?

6 THE COURT: Of course.

7 (Pause.)

8 MR. LECHTENBERGER: Thank you, Your Honor. Nothing  
9 further.

10 (The witness steps down.)

11 MR. LECHTENBERGER: We'll rest, Your Honor.

12 MR. CALVERT: We rest and close, Your Honor.

13 THE COURT: Okay.

14 MR. LECHTENBERGER: Judge, I'll close with the *caveat*  
15 of what I said initially by falling on the sword and telling my  
16 client when I found out --

17 THE COURT: Well, do you want to argue first? You  
18 can.

19 MR. LECHTENBERGER: Well, Judge, I'm sensitive to the  
20 Court, you've always been square with me in the past. I just  
21 --

22 THE COURT: Oh, okay.

23 MR. LECHTENBERGER: -- don't want you to deny my -- or  
24 say that I haven't overcome the burden because my client  
25 followed and heeded my instructions on the Pretrial Services

1 report. So --

2 THE COURT: Well, first of all, let me say that I'm  
3 not holding someone's exercising the right not to talk to  
4 Pretrial against them. The only reason I would be concerned is  
5 that there isn't the information that is verified. I will say  
6 to you that it's been my experience in these last 19 months  
7 that the way Pretrial would verify that information is to talk  
8 to some of the same witnesses who have testified about it. And  
9 so I would just assume that that information is true.

10 So, but it's your -- whatever you decide that you want to  
11 do. I know that they would verify that information by asking  
12 those questions of the same -- some of the same witnesses,  
13 either Mr. Gonzalez's wife, mother, sister. And so I have no  
14 reason not to believe that at least the personal information  
15 that would be contained in the Pretrial Services report that's  
16 come out here is not what they would have verified.

17 MR. LECHTENBERGER: And that's why I mentioned to you,  
18 Your Honor, that it was my fault initially but that I would tie  
19 everything in and run it with the other questions to try to,  
20 for the sake of brevity, make this a little quicker, more  
21 expeditious for the Court. So, with what you've said, Your  
22 Honor, I will stand down. I would like to briefly argue.

23 THE COURT: Okay.

24 MR. LECHTENBERGER: Again, if that's what you would  
25 like.



1 THE COURT: I can give you that opportunity, as well  
2 as Mr. Calvert, but I'll let him go first.

3 MR. CALVERT: Your Honor, as the Court is aware, this  
4 is a presumption case. I would just point out that this is not  
5 some case where a young 23-year-old individual with no criminal  
6 history gets picked up on the side of the road on some  
7 interdiction stop with a small quantity of cocaine and we're  
8 here arguing about whether or not he should be detained or not  
9 detained. When you look at the totality of the facts of this  
10 case, Mr. Gonzalez is a major cocaine distributor. In context  
11 of the indictment in the Eastern District of Virginia, you've  
12 got eight individuals indicted. It is the Government's  
13 position and law enforcement's position that Mr. Gonzalez is  
14 the source of supply, cocaine source of supply, for all of  
15 those individuals.

16 According to Mr. Morgan, who again I would challenge anyone  
17 to find in any way any information that Mr. Morgan provided to  
18 law enforcement that turned out to be inconsistent, and it's  
19 his position for the past two years that Mr. Gonzalez has  
20 provided him a minimum of 150 kilograms of cocaine. That's  
21 over 300 pounds of cocaine. Now, we can parse everything and  
22 have an explanation for everything that's come out in this  
23 hearing. When law enforcement finds multiple firearms,  
24 multiple assault weapons, drums that have 100-shot magazines  
25 that attach to assault weapons, we can explain that away if we

1 want to and say, oh, well, he's a gun collector. We can find  
2 an individual with multiple vehicles, who admittedly by his  
3 mother's testimony works at a tire shop that is doing poorly,  
4 and say, well, he collects cars and he sells them to other  
5 people. And we can say, well, he also has been linked to a  
6 stash house where an ion scan indicates the presence of  
7 cocaine, methamphetamine, as well as wrappers consistent with  
8 kilo wrappings, and we can say, well, but I could pull out a  
9 dollar bill out of my wallet and there might be traces of  
10 cocaine on that as well. And we can search the residence he  
11 was located in and find not one or two cell phones but nine  
12 cell phones, and we can say, well, you know, people go through  
13 cell phones. That's a common practice. That doesn't mean he's  
14 a bad guy or a criminal.

15 And of course you can do all that if you don't apply any  
16 reason or common sense to that argument. The fact of the  
17 matter is that, combining all of those things together, it is  
18 clear that Mr. Gonzalez is a substantial cocaine trafficker.

19 And you'll note, Your Honor, I intentionally left out the  
20 fact, in putting those facts before the Court, the fact that he  
21 is recorded multiple times talking to an admitted cocaine  
22 distributor about providing him with 20 kilos of cocaine.

23 And I bring all that to the attention of the Court, Your  
24 Honor, because -- and God bless the witnesses that came up and  
25 testified for him, but no matter what anybody said, they were

1 going to have the opinion that he's a good guy, a churchgoing  
2 guy, he's never going to break the law. He's a drug dealer.  
3 Well, a lot of times, and it's been proven time and time again,  
4 people don't know all there is to know about the individuals  
5 that they're close to.

6 And I bring all this to the Court's attention, Your Honor,  
7 because one of the factors the Court is to consider is the  
8 weight of the evidence. The weight of the evidence is  
9 overwhelming in this case that this defendant is a cocaine  
10 trafficker.

11 Now, we can stand up and argue before the Court, well, Your  
12 Honor, yes, he distributes drugs, but it's marijuana. And if  
13 that's the argument that the defense wants to make up in  
14 Virginia, so be it. But as far as where we are here, it is  
15 clear before the Court that Mr. Gonzalez is a major  
16 distributor. He is the top -- on the top of the food chain as  
17 far as this conspiracy is concerned in the Eastern District of  
18 Texas [sic]. He possessed assault weapons. He has no real  
19 legitimate form of employment other than his drug-dealing  
20 activities, other than, I guess, working at a tire shop or  
21 collecting guns or collecting cars and selling cars. And it  
22 appears that he has all the trappings of a drug dealer, that  
23 being assault weapons, firearms, stash house, multiple cell  
24 phones.

25 And Your Honor, I would just urge the Court to consider all

1 of these factors in view of a reason and common sense when  
2 making a determination whether or not he is a threat to the  
3 community.

4 Now, whether or not he's a flight risk, certainly, that's  
5 up to the Court to decide. I would submit to the Court that  
6 based on the level that he will certainly be at if convicted,  
7 that being over or at 150 kilograms, he is looking at a  
8 substantial, substantial amount of time in the penitentiary,  
9 certainly as much as he's been alive to this date, if he's  
10 convicted. And Your Honor, that is certainly an incentive to  
11 flee.

12 But aside from that, there is a presumption that he is a  
13 danger to the community, and all of the evidence that's been  
14 presented to this Court is consistent with that.

15 And with that, we would urge the Court to detain him, order  
16 that he be sent back to the Eastern District of Virginia to  
17 answer these charges, and certainly determine that through the  
18 course of these proceedings that probable cause has been met.

19 THE COURT: Thank you.

20 MR. LECHTENBERGER: I'll begin my approach to the  
21 Court by just asking for us, in a clear and level-headed and I  
22 guess soft approach, to look at the motion for detention. The  
23 Government has x'd off four reasons here why the Court should  
24 detain my client. Certainly, I have advised him and talked to  
25 him about what the presumption means. There is no doubt -- and

1 I think the Government will even concede this, if pressed --  
2 that my client would appear. If Agent Hale, who's an  
3 experienced agent, and Mr. Calvert, who's a very experienced  
4 AUSA who's in a supervisory position here, had any evidence  
5 that he was going to go to Mexico or that he had traveled to  
6 Mexico or had a fake passport, you would have heard that.  
7 Thus, the absence of that evidence helps me. So we can get rid  
8 of that, because he will appear.

9 Next, the Government talks about how he's some type of  
10 danger or threat to the community, and just belabors and  
11 belabors this gun. And certainly I've been doing this for a  
12 while. The AUSA has. But at some point in time, just talking  
13 about it doesn't mean it's necessarily so. In fact, Ms.  
14 Gonzalez had a fairly good remark about Jay Leno collecting  
15 cars. Do I approve of it? No. Is it something I would do?  
16 No. I'm not trying to be clever or cute, but we're not parsing  
17 out. All we're doing is pointing out that none of these  
18 weapons under 18 U.S.C. 924 are illegal. I could go down to my  
19 buddy's store on Sylvan at Ray's Gun Store and purchase  
20 anything I want that's out of Government's Exhibit 1 through 8.  
21 And at the end of the day, I think that's important for the  
22 Court to understand.

23 Do I wish I could go back in time and say, what are you  
24 doing with those guns? Sure. They look bad. I'll admit it.  
25 It's the wart on my forehead. I'm going to expose it. I'm not

1 going to hide it from you, Judge. Which is, one more time, why  
2 I had all these folks down here. I had three witnesses -- they  
3 were honest, truthful and credible -- that came up, hit the  
4 witness stand, as uncomfortable as it would be, and be cross-  
5 examined by a good AUSA like Mr. Calvert.

6 The assault rifles are something for the Court to consider.  
7 We've rebutted that. So, if I've handled the serious flight  
8 risk, the appearance, that he would comply with any condition  
9 -- and I mean any. Put every one of them you want on him,  
10 Judge, if that makes you feel better. But I think, with  
11 electronic monitoring, with curfew, with GPS, make him check in  
12 with the Marshals whenever you want and Pretrial Services.  
13 Verification. Show you bank accounts. We'll do everything.  
14 Give up your Fourth Amendment rights if they want to do a home  
15 study, a home search. Fine.

16 That leaves us with the main one that Mr. Calvert was so  
17 stressing with the Court, which would be the 10-plus drug  
18 offense. I would take exception and disagree with being  
19 characterized -- that is, Mr. Gonzalez being characterized as  
20 the head of this drug organization.

21 Now, far be it from me to come in here to court and say  
22 that he's just a Pollyanna or that he's innocent or he's white  
23 as the driven snow. I'm not saying that. In fact, my whole  
24 argument today was a little bit unorthodox. It's something  
25 that is unconventional. I suspect that Agent Hale caught him

1 with something. I don't know yet. I haven't seen any  
2 discovery. But just based on my dealings professionally with  
3 Agent Hale, I know he's a good agent. And if he says up on the  
4 witness stand that my guy said 20 or 21, it's probably true.  
5 No reason to doubt what he said.

6 What my contention is is how do we know it's cocaine?  
7 What, because some guy, Mr. X, out of Virginia says that he has  
8 gold rims on his teeth? Really? So, beyond a doubt, beyond a  
9 reasonable doubt in trial or at this presumption hearing, that  
10 somehow because somebody, Mr. X, whose proper noun name we  
11 don't know, says he has gold on his teeth, that somehow means  
12 he's the head poobah, that he's the head guy?

13 But they want to then I guess dovetail into saying that,  
14 somehow or another, okay, well, we have that, and then we have  
15 Mr. Morgan, a/k/a Silverback, who we know through my cross-  
16 examination has a moral turpitude offense, fraud or theft or  
17 stealing or something, which means that that impinges your  
18 character. That means that person is given less weight.

19 So if you boil everything down, what the Government has is  
20 some type of 21 or 20 deal. Okay. Could it be kilos, could it  
21 be pounds, could it be meth? I guess. I guess, in the world  
22 of the Government, it could be heroin even. An ion scanner.  
23 Really? I mean, an ion scanner. Judge, you've had experience  
24 with those. Those are microscopic things. I mean, they're  
25 atoms, however you want to characterize it. I mean, if they

1 had any type of proof, don't you know we would have seen a  
2 picture of that? Instead, they want to beat me over the head  
3 and belabor this point about the guns.

4 So, at the end of the day and at the end of my argument,  
5 what I'm going to point out, under 18 U.S.C. 3142, Subsection  
6 (g)(2), I have rebutted it. It was hard as heck to get all  
7 these folks down here. And I say that just because you know  
8 it's true. Getting folks down here, within a 48-hour period of  
9 when I get hired, to get them down here out of their busy  
10 schedule, to come down and show that in their heart of hearts  
11 that they care about this man and they'll vouch for him,  
12 they'll promise for him, it's tough to do.

13 Judge, I've rebutted it. I would ask you for a bond.  
14 Thank you.

15 THE COURT: Mr. Gonzalez, I find that there is  
16 probable cause to believe that you committed the offense  
17 alleged in the criminal complaint -- that is, conspiracy to  
18 possess with the intent to distribute more than five kilograms  
19 of cocaine. That offense gives rise to a rebuttable  
20 presumption under the statute that there is no condition or  
21 combination of conditions I could impose which would reasonably  
22 assure the safety of the community and your appearance as  
23 required.

24 At this point, based on the evidence that I have heard --  
25 and I do think that there is strong evidence that you in fact



1 are a larger-scale dealer, not the largest I've ever heard of  
2 but a large-scale dealer of cocaine -- I don't find that you  
3 have rebutted the presumption or that the presumption that you  
4 would be a danger to society has been rebutted.

5 Both Congress and the Courts have made a point of finding,  
6 concluding, that drug offenses, drug trafficking offenses, are  
7 inherently, inherently violent. The fact that guns were also  
8 involved, meaning that you possess guns, and I do find that you  
9 actually traffic in cocaine, makes me believe that that's the  
10 circumstance that probably exists in this case, that there is  
11 that danger to the community.

12 For that reason, I am going to order you detained. I am  
13 going to order you transferred to the Eastern District of  
14 Virginia to answer the charges in the criminal complaint.

15 Mr. Lechtenberger did an excellent job for you, and my  
16 standard here is not the same standard as what a jury would  
17 have to consider to determine ultimately whether or not you are  
18 guilty under the law for that. But for the purposes that we  
19 are here, where my standard is not as high as that, I do make  
20 the findings that I have announced here.

21 So you are remanded to the custody of the U.S. Marshal for  
22 transfer to the Eastern District of Virginia.

23 Is there anything else we need to take up at this time?

24 MR. CALVERT: Nothing from the Government, Your Honor.

25 MR. LECHTENBERGER: Nothing from the Defense, Judge.

1 THE COURT: Then that concludes your hearing, Mr.  
2 Gonzalez, and you're remanded to custody at this time.

3 MR. LECHTENBERGER: May I be excused, Your Honor?

4 THE COURT: Yes, sir.

5 (Proceedings concluded at 3:55 p.m.)

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CERTIFICATE

20 I certify that the foregoing is a correct transcript from  
21 the digital sound recording of the proceedings in the above-  
22 entitled matter.

23

24

Kathy Rehling  
Certified Electronic Court Transcriber  
CET\*\*D-444

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Date

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